IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

CIVIL WRIT No. 169 of 2007

MUNNA
V/S
THE RENT TRIBUNAL, BIKANER & ANR.

Mr. KN PRAJAPAT for Mr. PUSHPENDRA TRIVEDI, for the appellant / petitioner

Date of Order : 12.1.2007

HON'BLE SHRI N P GUPTA,J.

ORDER

By this petition, the petitioner seeks to challenge the order of the learned trial court dt. 29.11.2006, whereby the learned trial court has declined to delete issue no.2. Issue no. 2 comprehended the question, as to whether the disputed shop remains closed, and is not functioning.

The eviction proceedings have been initiated on the ground of reasonable and bonafide necessity, and issue no.3 is about the defendant having another premises with him on rent. It is contended that alleged non-user of the premises by the defendant is not one of the grounds for eviction, and therefore, even if the plaintiff establishes this issue, he cannot get a decree on this ground, therefore, the issue is sought to be struck out.

In my view may be that non user of the premises, as alleged and comprehended by issue no. 2, may or may not, by itself be a ground of eviction, but then it cannot be said, that the learned trial court was in any manner in error in declining to delete the issue. Therefore, no interference is required in the impugned order. The writ petition is, therefore, dismissed summarily.

(N.P.GUPTA), J.